

(25)  
8/21/00

2 to 6

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**GAIL GALLOWAY,**  
**Plaintiff**

**v.**

**PENNSYLVANIA BOARD OF  
PROBATION AND PAROLE,**  
***et al.***  
**Defendants**

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:  
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:  
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:

**Civil Action No. 1:00-CV-00649**

**(Judge Rambo)** ✓

**FILED**  
HARRISBURG, PA

**AUG 21 2000**

MARY E. D'ANDREA, CLERK  
Per                       
Deputy Clerk

**PLAINTIFF'S RESPONSE TO COURT ORDER DATED AUGUST 10, 2000**

Gail Galloway, ("Plaintiff"), hereby files the following proof of service documents with this Court. These documents, except the enclosed notarized Affidavit of Proof of Service by Pennsylvania State Constable Dave Metzger, were filed previously with this Court on June 22, 2000.

Defendant Charles Giornesto was served by Constable Metzger on June 2, 2000 and Defendant Stewart was served by Constable Metzger on June 1, 2000 according to the Fed. R. Civ. P.

All other defendants, except John Doe #1, ("Doe #1"), have returned a waiver of service of summons which are again filed with the Court. Plaintiff has not as yet been able to ascertain the true name of Doe #1 who was served by certified mail with attached waiver of service of summons. The certified mail complaint was signed for by Dale Norris at SCI Smithfield on June 15, 2000 and Plaintiff has not received a signed waiver of service of summons as of this date.

Respectfully submitted,



Gail Galloway

R.D.#1, Box 30

Petersburg, PA 16669

(814) 669-9164

August 18, 2000

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

SUMMONS IN A CIVIL ACTION

PARTIES FOR CASE #1:00-cv-00649

David D. Galloway  
Plaintiff

v.

Pennsylvania Board of Probation and Parole  
defendant

Joseph Smith  
defendant

Daniel L. Roberts  
defendant

George Johnson  
defendant

Charles Giornesto  
defendant

Robert B. Stewart  
defendant

Arthur L. Thomas  
defendant

Scott Roy  
defendant

Thomas Ridge  
defendant

William Ward  
defendant

Marion Burke  
defendant

William Caldwell  
defendant

Josh Mendelsohn  
defendant

Fred Jacobs  
defendant

John Doe #1  
defendant

Hert Mechlin  
defendant

James Morgan  
defendant


**AFFIDAVIT OF PROOF OF SERVICE**

I, Dave Metzger, Pennsylvania State Constable, personally served Robert B. Stewart, III, a summons and complaint in the case of *Gail Galloway v. Pennsylvania Board of Probation and Parole*, Civil No. 1:CV-00-0649 at the Huntingdon County District Attorney's Office at 3:35 p.m. on June 1, 2000. Robert B. Stewart's signature is on the Return of Service form attached herein.

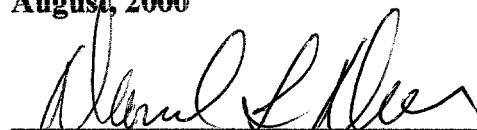
I, Dave Metzger, Pennsylvania State Constable, personally served Charles B. Giornesto a summons and complaint in the case of *Gail Galloway v. Pennsylvania Board of Probation and Parole*, Civil No. 1:CV-00-0649 at the office of District Justice, 20-3-01, in Alexandria, PA on June 2, 2000. Charles B. Giornesto's signature is on the Return of service form attached herein.

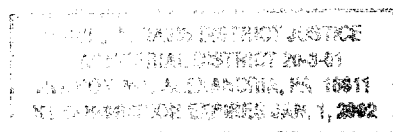
I declare under penalty of perjury under the laws of the United States of America that the foregoing information and the information on the attached Return of Service forms is true and correct.

Date: August 18, 2000

  
Dave Metzger  
Pennsylvania State Constable-B001731  
P.O. Box 624  
Hollidaysburg, PA 16648

Sworn to and subscribed  
before me this 18th day of  
August, 2000

  
District Justice, 20-3-01



RETURN OF SERVICE - Case #1:00-cv-00649

Service of the Summons and Complaint was made by me \*

DATE

6-1-00 3:35 PM

NAME OF SERVER (Print)

DAVE METZGER

TITLE

PA STATE CONSTABLE

Check one box below to indicate method of service

☒ Served personally upon the defendant. Place where served:HUNTINGDON COUNTY DA'S OFFICE☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:☐ Other (specify):

## STATEMENT OF SERVICE FEES

TRAVEL

SERVICES

25.00

TOTAL

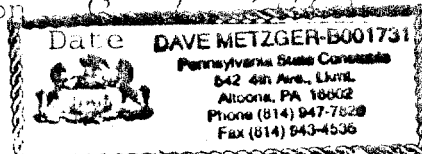
25.00

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

6-1-2000



Signature of Server

PO BOX 624 HOLLIDAYSBURG, PA 16664  
 Address of Server

\*) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

## RETURN OF SERVICE - Case #1:00-cv-00649

Service of the Summons and Complaint was made by me *	DATE 6-2-2000
NAME OF SERVER (Print) X <u>Charles P. Steiner</u>	TITLE DINE METZGER PA STATE CONSTABLE
Check one box below to indicate method of service	

☒ Served personally upon the defendant. Place where served:

DISTRICT JUSTICE 20-3-01 OFFICE ALEXANDRIA, PA

☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.

Name of person with whom the summons and complaint were left:

☐ Returned unexecuted:

☐ Other (specify):

## STATEMENT OF SERVICE FEES

TRAVEL	SERVICES 35.00	TOTAL 35.00
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## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct

Executed on 6-2-00  
Date

Charles P. Steiner PSC  
Signature of Server

PO Box 624 HOLLIDAYSBURG, PA 16844  
Address of Server

\* As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure

**WAIVER OF SERVICE OF SUMMONS**

TO: Gail Galloway

I acknowledge receipt of your request that I waive service of a summons in the action of *Gail Galloway v. Pennsylvania Board of Probation and Parole, et al.*, which is case number 1:00-CV-00649 in the United States District Court for the Middle District of Pennsylvania. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I be served with judicial process in the manner provided by Rule 4.

I will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me if an answer or motion under rule 12 is not served upon you within 60 days after April 25, 2000.

May 18, 2000  
Date

Arthur Thomas  
Signature

Arthur Thomas  
Pennsylvania Board of Probation and Parole  
1101 S. Front Street, Suite 5000  
Harrisburg, PA 17104

**DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by Plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

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June 1, 2000  
Date

Francis R. Filipi for

  
Signature

Joseph Smith  
Pennsylvania Board of Probation and Parole  
Executive House, Room 204  
615 Howard Ave.  
Altoona, PA 16601

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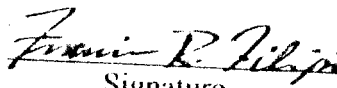
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Date

Francis R. Filipi for



Signature

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Pennsylvania Board of Probation and Parole  
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May 18, 2000  
Date

Frank R. Filipini  
Signature

*for* Fred Jacobs  
Pennsylvania Board of Probation and Parole  
1101 S. Front Street, Suite 5000  
Harrisburg, PA 17104

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May 18, 2000  
Date

Francis R. Filipe  
Signature

*for* Ms. Congelio, Parole Agent  
SCI Waynesburg  
R.D.#1, Box 67  
Waynesburg, PA 15370-9941

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Aug 15, 2000  
Date

Francis R. Filipe  
Signature

*ow*

Pennsylvania Board of Probation and Parole  
1101 S. Front Street, Suite 5000  
Harrisburg, PA 17104

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Aug 15, 2000  
Date

William R. Tilgh  
Signature

William Ward  
Pennsylvania Board of Probation and Parole  
1101 S. Front Street, Suite 5000  
Harrisburg, PA 17104

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Aug 18, 2000  
Date

Thomas R. Filip  
Signature

for: K. Scott Roy  
Pennsylvania Board of Probation and Parole  
1101 S. Front Street, Suite 5000  
Harrisburg, PA 17104

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Aug 18, 2000  
Date

Francis R. Filipi  
Signature

for Thomas Ridge  
Governor's Office  
225 Main Capitol Building  
Harrisburg, PA 17120

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A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.



**WAIVER OF SERVICE OF SUMMONS**

TO: Gail Galloway

I acknowledge receipt of your request that I waive service of a summons in the action of *Gail Galloway v. Pennsylvania Board of Probation and Parole, et al.*, which is case number 1:00-CV-00649 in the United States District Court for the Middle District of Pennsylvania. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I be served with judicial process in the manner provided by Rule 4.

I will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me if an answer or motion under rule 12 is not served upon you within 60 days after April 22, 2000.

Aug 10, 2000  
Date

Francis R. Filipi  
Signature

for  
Marlene Stewart, Unit Manager  
SCI Waynesburg  
R.D.#1, Box 67  
Waynesburg, PA 15370-9941

**DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by Plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

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I understand that a judgment may be entered against me if an answer or motion under rule 12 is not served upon you within 60 days after April 24, 2000.

May 15, 2000  
Date

*Frank R. Filizic*  
Signature  
for Seth Mendelsohn  
Office of the Attorney General  
15th Floor, Strawberry Sq.  
Harrisburg, PA 17120

**DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

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**WAIVER OF SERVICE OF SUMMONS**

TO: Gail Galloway

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I understand that a judgment may be entered against me if an answer or motion under rule 12 is not served upon you within 60 days after April 22, 2000.

June 19, 2000  
Date

Frank R. Filipi  
Signature

Neil Mechling, Sharon Burks, James Morgan  
SCI Waynesburg  
R.D.#1, Box 67  
Waynesburg, PA 15370-9941

**DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS**

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SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY											
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<table border="1"> <tr> <td>A. Received by (Please Print Clearly)</td> <td>B. Date of Delivery</td> </tr> <tr> <td>Dale Norris</td> <td>6-15-00</td> </tr> <tr> <td>C. Signature</td> <td> <input checked="" type="checkbox"/> Agent  <input type="checkbox"/> Addressee </td> </tr> <tr> <td colspan="2"> D. Is delivery address different from item 1?  If YES, enter delivery address below: </td> </tr> <tr> <td colspan="2"> <input type="checkbox"/> Yes  <input type="checkbox"/> No </td> </tr> </table>		A. Received by (Please Print Clearly)	B. Date of Delivery	Dale Norris	6-15-00	C. Signature	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee	D. Is delivery address different from item 1? If YES, enter delivery address below:		<input type="checkbox"/> Yes <input type="checkbox"/> No	
A. Received by (Please Print Clearly)	B. Date of Delivery												
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C. Signature	<input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee												
D. Is delivery address different from item 1? If YES, enter delivery address below:													
<input type="checkbox"/> Yes <input type="checkbox"/> No													
1. Article Addressed to: John Doe #1 Corrections Officer SCI Smithfield P.O. Box 999 1120 Pike St. Huntingdon, PA 16652		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.											
2. Article Number (Copy from service label) 7000 0600 0021 0136 7771		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes											

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GAIL GALLOWAY,

Plaintiff

v.

PENNSYLVANIA BOARD OF  
PROBATION AND PAROLE,  
et al.

Defendants.

CIVIL NO.: 1:00-CV-00649

(MJ: J. Andrew Smyser)  
(J: Sylvia H. Rambo)

FILED  
HARRISBURG, PA

APR 28 2000

MARY E. D'ANDREA, CLERK  
Per MET  
Deputy Clerk

ENTRY OF APPEARANCE

Please enter the appearance of the undersigned Assistant  
United States Attorney on behalf of William Caldwell in the above  
captioned case.

Respectfully submitted,

DAVID M. BARASCH  
United States Attorney

By: Anne K. Fiorenza

ANNE K. FIORENZA  
Assistant United States Attorney  
Middle District of Pennsylvania  
Federal Building  
P.O. Box 11754  
228 Walnut Street  
Harrisburg, PA 17108-1754